

U.S. Rep. Duncan Hunter, R-Calif., who apparently unsuccessfully demanded answers from Attorney General Eric Holder about the prosecution of a Border Patrol agent, today was joined by dozens of his colleagues in going over Holder's head to address the questions to Barack Obama.

A copy of the letter, signed by Hunter and 36 other members of Congress, was obtained by Andy Ramirez, president of the Law Enforcement Officers Advocates Council, which is working on the case involving the prosecution of and two-year sentence for agent Jesus Diaz.

After twice being cleared by investigators of wrongdoing, he was prosecuted by the Obama administration and ultimately sentenced to two years for violating the constitutional rights of an illegal alien drug smuggler he caught hauling 75 pounds of marijuana into the U.S.

He was accused of pulling on the juvenile smuggler's arms after they had been handcuffed to make him comply with orders.

"We believe that prosecution of Border Patrol agents, including the case against Agent Diaz, sets a dangerous precedent for handling these issues in the future and could force agents to hesitate in the line of duty posing a risk to their own lives and the lives of others," said the letter to Obama.

"Border Patrol agents must be able to appropriately and effectively protect our nation's border without the threat of federal prosecution hanging over their head," the letter continued. "We certainly do not condone the use of excessive or unreasonable force, however, the facts in this case do not indicate that the drug smuggler was harmed during the arrest or that excessive force was used."

The letter's signatures included Reps. Hunter, Brian Bilbray, Dana Rohrabacher, Sue Myrick, Ed Royce, Alan Nunnelee, Walter Jones, Dennis Ross, John Duncan, Dan Burton, Allen West, Michael Grimm, Steve Womack, Lynn Westmoreland, Joe Walsh, Jeff Miller, Don Manzullo, Chip Cravaack, Bill Huizenga, Frank Wolf, Cynthia Lummis, Lou Barletta, John Carter, Pete Sessions, Austin Scott, Ken Calvert, Renee Ellmers, Mike Kelly, Steve Austria, Wally Herger,

Tom Marino, Bob Goodlatte, Ted Poe, Steve Stivers, Scott DesJarlais, **John Campbell** and Tom Latham.

The members of Congress want to know Obama's responses to several issues in the case, including:

"Agent Diaz was cleared of all wrongdoing in this matter by the U.S. Department of Homeland Security's Office of the Inspector General and the U.S. Customs and Immigration Enforcement's Office of Professional Wrongdoing. It was only a contradictory report from the U.S. Customs and Border Protection that provided the basis for the U.S. attorney's office's case."

"The prosecution of Agent Diaz was initiated at the request of the Mexican government."

"Despite being described by the U.S. Customs and Immigration Enforcement's Office of Professional Wrongdoing as a witness whose 'credibility is questionable at best,' the smuggler in question was given full immunity and a visa to testify against Agent Diaz."

"Testimony from the suspected group of smugglers, including the one in question, changed considerably from what was initially given the night of the arrest to what was attested to in court."

The U.S. attorney's office in the Western District of Texas, responsible for prosecuting this case, was the same office, under U.S. Attorney Johnny Sutton, that aggressively prosecuted the cases against Agents Ignacio Ramos and Jose Compean. Both of these agents were given 10-year prison sentences that were later commuted by President George W. Bush after two years."

Border Patrol agents, the letter said, are to "keep drugs and the carriers of contraband out of the United States."

"Border Patrol Agent Jesus E. Diaz executed this difficult task by restraining a drug smuggler attempting to enter the U.S., which has resulted in an unfair and excessively disproportionate two-year prison sentence," they wrote. "It is our belief that the prosecution of Agent Diaz ... is a disservice to the men and women of the Border Patrol and the mission they undertake," it said.

Diaz currently is in federal prison in solitary confinement.

WND previously published a report written by the Department of Homeland Security, Immigration and Customs Enforcement, Office of Professional Responsibility, and submitted April 20, 2009, documenting that the OPR recommended administrative action in the Diaz case, after the U.S. attorney's office in Del Rio, Texas, had declined prosecution.

The document, as received and as published by WND, made clear that the injury suffered by the Mexican teenage drug-smuggler appeared to be minor, according to the reports of investigating DHS agents.

"In his statement [Name Redacted] did not complain that he was injured, hurt, or in pain when the official twisted his arms and applied the 'heavy pressure,'" the OPR report stated, referring to the teenage drug-smuggler. "[Name redacted] was processed for voluntary return to Mexico by BPA Marco A. Ramirez, and subsequently returned to Mexico on the same date."

Separately, WND has obtained a letter sent by the U.S. attorney's office, dated Nov. 7, 2011, in the Western District of Texas to the Diaz family demanding payment of a nearly \$7,000 fine within 30 days.

The government letter specified that the government has placed a lien on all Diaz assets, including the family home held in the name of Diaz's wife, such that the Diaz family cannot sell any assets, including the family home, without the permission of the government.

"This demand letter is another outrage," Ramirez said, "in that the judge at Diaz's sentencing told the family that the government would make no attempt to collect the fine until Diaz had served his prison term."

Instead, the DOJ letter suggested Agent Diaz could work in prison under the Inmate Financial Responsibility Program to begin paying the fine in small increments, with money Diaz might earn working in prison.

"This is another example of the draconian abuse by a rogue federal prosecutor's office in the Western District of Texas, that is bent on prosecuting Border Patrol agents doing their duty, while refusing to hold these criminal illegal aliens for the countless violations of law on their part," Ramirez said.

The four-page report regarding the situation involving Diaz also documented that the unnamed teenage drug smuggler had lied on the scene about any knowledge of marijuana, thereby compromising his credibility:

On April 16, 2009, AUSA (Assistant U.S. Attorney) Schall contacted SSA (Senior Special Agent) White and advised that he had conferred with U.S. Department of Justice, Prosecutor Michal Frank, the USAO (U.S. Attorney's Office)/San Antonio and the USAO/Del Rio. AUSA Schall stated that based on the information that [Name Redacted] was apprehended in what appeared to be illegal activity of smuggling marihuana (sic) into the U.S., and that he lied to BPAs (Border Patrol Agents) on the scene about any knowledge of marijuana; [Name Redacted] credibility was questionable at best. Further, based on the fact that [Name Redacted] was not available to testify about the alleged use of excessive force applied to him by BPA DIAZ, and there did not appear to be any chance of locating him in the near future, the USAO/Del Rio declined to prosecute BPA DIAZ.

Ramirez said it appears the Justice Department "wanted a scalp" to satisfy authorities in Mexico.

On October 20, U.S. District Judge Alia Moses sentenced Diaz to 24-months in prison after he was found guilty in a federal criminal trial of denying the Mexican teenager of his constitutional rights by applying excessive force during the incident.

According to the FreeAgentDiaz.com website, Diaz was "maliciously prosecuted at the request

of the Mexican consul in Eagle Pass, Texas."

The legal case against the officer was "solely motivated by politics and is yet another example of prosecutorial abuse and misconduct while protecting Mexico's narco-terror influences," organizers of the website said.

Ignacio Ramos and Jose Alonso Compean

Border watchers will remember the extended battle fought by Border Patrol Agents Ignacio Ramos and Jose Compean after they were prosecuted, convicted and jailed, again at the request of the Mexican government, for shooting at and striking a drug smuggler who reportedly dropped a load in the U.S. and was fleeing back to Mexico.

Their punishments ultimately were commuted by President George W. Bush, although they did not receive pardons, leaving their convictions on their records.

Their original case stemmed from the Feb. 17, 2005, shooting of Oswaldo Aldrete-Davila. The two officers said they thought Aldrete-Davila was armed and made a threatening move.

WND was among the first to report Aldrete-Davila then committed a second drug offense, smuggling a second load of 750 pounds of marijuana across the border while he was under the protection of immunity from federal prosecutor Johnny Sutton's office and in possession of a border-pass card authorized by the Department of Homeland Security.

WND also reported when Aldrete-Davila admitted to federal drug smuggling charges, was convicted and sentenced to federal prison for a 57 months.

Aldrete-Davila was granted immunity for his drug smuggling by federal prosecutors in exchange for his testimony against the agents. He had crossed the Rio Grande and picked up a marijuana-loaded vehicle near El Paso. After a car chase in which he fled from the officers, he

abandoned the vehicle and ran back across the border on foot. He was shot in the buttocks as he ran.